

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BRENDA K. SANDERS,

Plaintiff,

v.

MICHIGAN SUPREME COURT, *et al.*,

Defendants.

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Case No. 16-12959

District Judge Avern Cohn

Magistrate Judge R. Steven Whalen

**ORDER**

Before the Court is Defendant Norman Miller's motion to strike Plaintiff's second response in opposition to his motion to dismiss [Doc. #144]. Dr. Miller is correct that the sur-reply was improperly filed, and raised issues not addressed in Plaintiff's original response. See *Jocham v. Tuscola Cnty.*, 239 F.Supp.2d 714, 732 (E.D. Mich. 2003); *Montesi v. Nationwide Mut. Ins. Co.*, 970 F.Supp.2d 784, 792 (W.D.Tenn.2013). However, on February 23, 2018, I filed a Report and Recommendation recommending that Dr. Miller be dismissed from this action [Doc. #184]. In fn. 1, I addressed the impropriety of effectively amending a complaint by raising new issues in a sur-reply. Since Dr. Miller has prevailed notwithstanding the Plaintiff's sur-reply, his present motion to strike is moot.

The motion to strike [Doc. #144] is therefore DENIED AS MOOT.

IT IS SO ORDERED.

s/ R. Steven Whalen  
R. STEVEN WHALEN  
UNITED STATES MAGISTRATE JUDGE

Dated: February 26, 2018

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on February 26, 2018, electronically and/or by U.S. mail.

s/Carolyn M. Ciesla  
Case Manager to the  
Honorable R. Steven Whalen